

MAR 31 2008

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185-3068/3070-U

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sisk, Thomas J.
Serial No.: 10/810,797
Filed: 03/26/2004
Group Art Unit: 3751
Examiner: Nguyen, Tuan N.
Title: INTERFACE STRUCTURE FOR SHOWER SURROUND

REPLY BRIEF

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This reply brief is submitted in response to the Examiner's Answer mailed on February 20, 2008. Appellant will only respond to a few select points, without repeating the arguments in the Appeal Brief.

ArgumentA. §102 Rejection as anticipated by *Primucci*.

Claims 7-9 and 21-24 are finally rejected as anticipated by *Primucci*. In the Examiner's Answer, the Examiner argues that the gasket 34 of *Primucci* serves as both a retainer and a sealer. Specifically, the Examiner contends that the flange 38 of the gasket 34 holds the upper shower section in alignment with the lower shower section before the bolt 30 permanently clamps the shower sections together. Appellant continues to disagree with this interpretation of *Primucci*.

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First, *Primucci* teaches against the use of the gasket 34 as a retainer. At column 5, lines 57-60, *Primucci* even teaches that the gasket 34 is not necessary. If in fact the downward angle between blocks 20 and 22 would tend to push the upper and lower shower sections out of alignment with one another, as argued by the Examiner, it would follow that *Primucci* would teach that the gasket 34 is a necessary component of the bath assembly. In contrast, *Primucci* teaches the exact opposite.

In addition, there is no support within the disclosure of *Primucci* that the downward angle between the blocks 20 and 22 pushes the upper and lower shower sections backward and out of alignment with one another. The Examiner cannot assume that certain components would perform in a specific way where the reference fails to teach or suggest anything related to such an assumption. Accordingly, claims 7-9 and 21-24 are not anticipated by *Primucci*.


Closing

For the above reasons, all of the pending claims should be allowed.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

March 31, 2008
Date


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CERTIFICATE OF FACSIMILE

I hereby certify that this Reply Brief, relative to Application Serial No. 10/810,797, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on March 31, 2008.


Theresa M. Palmateer

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